

August 3, 2006

NORTH DAKOTA'S NONRESIDENT HUNTING LAWS UPHELD

BISMARCK – Today's decision by the 8th Circuit Court of Appeals is "an important ruling affirming the rights of states to manage and control recreation and wildlife resources within their borders," said Attorney General Wayne Stenehjem. "After all, it's the residents of that state who bear most of the expense and other burdens of creating and maintaining a rich environment for wildlife, such as North Dakota has done," he continued.

Minnesota filed a lawsuit in 2004, alleging North Dakota's hunting laws violated interstate commerce clause of the US Constitution by charging nonresident hunters higher fees and restricting the time when they may hunt. Minnesota also claimed that a North Dakota law allowing residents (but not nonresidents) to hunt small game on their own property without a license violated the U.S. Constitution.

After losing the case in federal District Court, last year Minnesota appealed to the 8th Circuit. The 8th Circuit concluded that the law allowing residents to hunt on their own property does not create a fundamental right protected under the Constitution because hunting game on one's land is not a 'property right.'

The 8th Circuit held that the Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act of 2005 permits states to regulate the fish and wildlife resources within their boundaries, including "regulations that differentiate between residents and nonresidents of such State," and therefore renders Minnesota's Commerce Clause claim constitutionally moot.